

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

|   |   |                |
|---|---|----------------|
| <b>SBC Communications Inc.,</b>                   | ) |                |
| <b>SBC Delaware Inc.,</b>                         | ) |                |
| <b>Ameritech Corporation,</b>                     | ) |                |
| <b>Illinois Bell Telephone Company</b>            | ) |                |
| <b>d/b/a Ameritech Illinois and</b>               | ) |                |
| <b>Ameritech Illinois Metro, Inc.</b>             | ) |                |
|   | ) |                |
|   | ) | <b>98-0555</b> |
| <b>Joint Application for approval of the</b>      | ) |                |
| <b>Reorganization of Illinois Bell Telephone</b>  | ) |                |
| <b>Company d/b/a Ameritech Illinois,</b>          | ) |                |
| <b>and the Reorganization of Ameritech</b>        | ) |                |
| <b>Illinois Metro, Inc. in Accordance</b>         | ) |                |
| <b>with Section 7-204 of the Public Utilities</b> | ) |                |
| <b>Act and for all other Appropriate Relief .</b> | ) |                |

**CONCURRING OPINION OF CHAIRMAN RICHARD L. MATHIAS  
ON THE ORDER ENTERED BY THE COMMISSION ON SEPTEMBER 23, 1999**

During past weeks the Hearing Examiners have received three letters written on behalf of myself and other Commissioners which inquired further about information contained in this proceeding's record. Those inquiries generally dealt with issues concerning (i) the impact on competition of the proposed transaction, (ii) conditions which could enhance competition in the local exchange market and (iii) the amount and allocation of savings which may result if the proposed transaction were consummated. Although the time required to respond to these inquiries prolonged the duration of the proceeding, I believe it has resulted in a much more defined Commission Order with a multitude of pro competitive provisions. Since the Federal Communications Commission has not yet acted, the Illinois inquiry has not delayed the transaction's conclusion.

After considering the record evidence I conclude, for the reasons stated in the almost 275 page Order signed by myself and other Commissioners, that the proposed transaction meets the statutory standards established by the Illinois Public Utility Code.<sup>i</sup> In addition, I believe that the Order's terms and conditions which respond to many of the concerns of the competing local exchange carriers (CLEC's) will significantly enhance the competitive nature of the Illinois telecommunications marketplace and be of true economic benefit to Illinois consumers.

While countless aspects of the telecommunications marketplace of the next millennium will be vastly different from that of today, one of the few constants will be the importance of the local loop. At its heart, I believe that is what this transaction is about - maintaining, or in the case of CLECs gaining - access to the local loop and leveraging that customer base with innovative products and services. Given the critical impact of this transaction on the local loop and the local exchange market, I view the Commission's market opening, pro competitive conditions as an imperative which will help shape the nature and evolution of the entire Illinois telecommunications marketplace.

The Order's terms and conditions, which mandate very significant penalties for non compliance, consider such subjects as operations support systems, shared transport, third party testing, interconnection agreements, performance measures and loop provisioning. Although these are arcane subjects entailing complex issues, they are the stuff of local telecommunications competition.

I would have preferred a different approach for the allocation of savings and will follow with interest how the Commission defines, measures and distributes savings.<sup>ii</sup> However, I realize that the true savings to consumers which flow from the Commission's decision will be the price reductions and service innovations that result from increased competition among telecommunications carriers in Illinois.

Finally, this proceeding again exposes the obsolete statutes, rules and procedures which this Commission is required to follow. These unduly prolong proceedings, hinder meaningful discussions of the issues by Commissioners and encourage, indeed almost obligate, the use of adjudication for all Commission decision making, including decisions regarding policy matters. Government officials and agencies must adhere to higher standards of due process and disclosure than private individuals and enterprises. However, the statutes, rules and procedures under which the Commission operates should be revised to better provide for a more rational due process, reasonable parameters for meaningful discussion and the encouragement of more relevant and timely decision making.

September 23, 1999

Richard L. Mathias

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<sup>i</sup> The use of Department of Justice Guidelines and judicial theories related to federal and state anti-trust laws are helpful in analyzing whether this or any other reorganization is not likely to have a significant adverse effect on competition. However, compliance or non-compliance with any one of these is not controlling on the Commission. The Commission adopts a flexible approach and may weigh many factors in making such determination.

<sup>ii</sup> Although I favor a merger savings proposal which was not adopted that would have returned merger savings to the Ameritech Illinois customers sooner, I am encouraged that today's Commission Order provides for the appointment of an outside auditor to assist in the determination of such savings.